

REMARKS

In the Office Action mailed on October 10, 2007, the Examiner rejected claims 10-13 under 35 U.S.C. § 101 as being directed to non-statutory subject matter and rejected claims 1-20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,108,728 to Kobayashi.

In response, Applicant has amended claims 10-13. No new matter has been added.

Applicant has amended claims 10-13 to recite “storage medium.” Support for this amendment can be found in paragraph [0029]. Applicant asserts that a storage medium is an apparatus and therefore statutory patentable subject matter. Applicant respectfully requests that the Examiner withdraw the rejection of claims 10-13 under 35 U.S.C. § 101.

In rejecting claims 1, 10 and 14, the Examiner asserts that Kobayashi teaches “obtaining a storage schedule for new AV program data defined over a predetermined time period,” in column 2, line 38 – column 3, line 9. Applicant respectfully disagrees.

Kobayashi never uses the phrase “storage schedule,” or any equivalents in column 2, line 38 – column 3, line 9. In addition, Kobayashi is not concerned with programs to be recorded at a future time. Instead, Kobayashi is concerned with how to store images in real-time. See generally, column 2, lines 8-54. That is, Kobayashi doesn’t have a schedule because it is always recording the images from a camera continuously. Since Kobayashi is only concerned with continuously recording images in real-time, Kobayashi does not have a “schedule” for when to store selected content in the future and thus does not teach the limitation of “obtaining a storage schedule.”

Similarly, Kobayashi does not “obtain[] a deletion schedule.” A schedule, as previously indicated, is a listing of events that occur at specified times. One example includes recording a sit-com on January 7 at 8:00 pm. If the deletion schedule of claims 1, 10 and 14 allows content to be stored for one week, then the deletion schedule causes this sit-com to be erased on January 14 at 8:00 pm. In contrast, Kobayashi deletes content only when more content is to be stored and there is insufficient space for storing the new content. See generally column 12, lines 19-22. This “as needed” deletion is not a schedule as it cannot be used to determine a particular time when content will be erased. Since Kobayashi does not obtain a “deletion schedule”, Kobayashi does not anticipate claims 1, 10 or 14.

Finally, it also follows that since Kobayashi does not obtain either a “storage schedule” or a “deletion schedule,” Kobayashi cannot “produce[] temporally dynamic indicia .. in response to ... said storage schedule and said deletion schedule.”

In rejecting claims 2, 4, 11 and 15 the Examiner asserts that Kobayashi’s Figure 5 is produced on a display device. Applicant disagrees. What is shown in Figure 5 is a data table given to management server 22 which does not have display. See column 9, lines 1-2 and management server 22 in Fig. 2. Thus, Figure 5 is never displayed.

In rejecting claim 3, the Examiner appears to assert that the claimed “selected time” is equivalent to Kobayashi’s switching time interval. Applicant asserts that they are not equivalent. The claimed “selected time” is a particular instant in time such as 2:00 pm, January 8, 2008. In contrast, Kobayashi’s switching time interval is a block of time like 1 hour. See column 10, line 13.

In addition, claim 3 combines a plurality of “storage configurations” from a “plurality of times.” As an example, the storage configuration could be determined at the following times:

1:00 pm	January 7, 2008
1:00 pm	January 8, 2008
3:00 pm	January 15, 2008

These configurations would then be combined together to produce the dynamic indicia.

In contrast, Kobayashi does not track storage space over a period of time and combine it to produce one result. As stated previously, Kobayashi is a real-time system that audits the available storage space at the end of a time interval, performs some operations and then “forgets” what the storage space capabilities were. Thus, at the end of the next time interval, Kobayashi looks at available storage space again without any reference to what the available storage space was at the end of a previous time interval. In addition, since Kobayashi is a real-time apparatus, it cannot look at future recordings to determine what its available storage space will be in the future.

With respect to claims 5, 12 and 16, the Examiner asserts that Kobayashi’s Figure 5 is a pie chart. Applicant respectfully disagrees and asserts Kobayashi’s Figure 5 is a table.

With respect to claims 7 and 18, the Examiner asserts that Kobayashi teaches “increasing compression ratio[s]” in column 4, lines 5-16. Applicant disagrees. Instead, Kobayashi teaches generating two streams in parallel; one at a higher resolution than another. See column 3, lines 56-59. Thus, once one piece of content is created at one resolution, it is not changed from MPEG1 to MPEG2. Kobayashi merely decides to keep

either the MPEG1 version or the MPEG2 version based on some event. See column 4, lines 5-16.

With respect to claims 9 and 20, the Examiner asserts that Kobayashi teaches archiving content in column 11, line 65 – column 12, line 35. Archiving means moving content from one storage location to another. Kobayashi describes erasing content and not moving it in column 11, line 65 – column 12, line 35.

Claims not specifically mentioned above are allowable due to their dependence on an allowed base claim.

CONCLUSION

No fees are due for this response. However, the Office is authorized to charge any additional fees or underpayments of fees (including fees for petitions for extensions of time) under 37 C.F.R. 1.16 and 1.17 to account number 502117. Any overpayments should be credited to the same account.

Applicant respectfully requests reconsideration of the present application, withdrawal of the rejections made in the last Office Action and the issuance of a Notice of Allowance. The Applicant's representative can be reached at the below telephone number if the Examiner has any questions.

Respectfully submitted,

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